

April 22, 2025

VIA ECF

Magistrate Judge Peggy Kuo
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn NY 11201

**Re: *State Farm Mut. Auto. Ins. Co., et al. v. Metro Pain Specialists P.C., et al.*,
Case No. 21 Civ. 5523 (E.D.N.Y.) – Revised Proposed Case Schedule**

Dear Judge Kuo:

Pursuant to Federal Rule 16(b), Local Civil Rule 16.2, and this Court’s Individual Practice Rule IV, plaintiffs State Farm Mutual Automobile Insurance Company and State Farm Fire and Casualty Company (collectively, “Plaintiffs”) and Defendants Leonid Shapiro, M.D., Metro Pain Specialists P.C., Tri-Borough NY Medical Practice P.C., Yan Moshe, Hackensack Specialty ASC LLC, Integrated Specialty ASC LLC, Citimed Surgery Center LLC, SCOB LLC, Star Solution Services Inc., NJMHC LLC (d/b/a Hudson Regional Hospital), Reuven Alon, Columbus Imaging Center LLC, Medaid Radiology LLC, Beshert Corp., Nizar Kifaieh, M.D., Premier Anesthesia Associates P.A., Regina Moshe, M.D., Citimedical I, PLLC, Citimed Services, P.A., Citimedical Services P.C., Citimed Complete Medical Care P.C., Citimed Management Services Inc., Vadim Dolsky, Optimum Health Acupuncture, P.C., Amro Mahmoud Barakat, P.T., Barakat PT, P.C., Peter Kopach, L.Ac., and First Alternative PLM Acupuncture P.C. (collectively, the “Defendants,” and together with Plaintiffs, the “Parties”) write regarding the current fact discovery deadline of May 2, 2025. The Parties respectfully request this Court extend the deadlines set forth in the Discovery Plan and Case Schedule (Dkt. 599) and enter the Proposed Revised Discovery Plan and Case Schedule attached hereto as Exhibit A (the “Proposed Case Schedule”). All parties actively participating in this action consent to this motion to modify the case schedule.¹

¹ The following 34 defendants have settled their claims with Plaintiffs and been dismissed from the case: Lyudmila Krupnova; LK Acupuncturist P.C.; Mohamed Elsayed Khallaf; Handy Physical Therapy P.C.; Mahmoud Ezz Eldeen Shalaby; Physical Therapy of New York P.C.; Edwin Castillo; Edcas Acupuncture P.C.; Peter Albis; PDA NY Chiropractic P.C.; Giulio Caruso; Brook Chiropractic of NY P.C.; Integrated Chiropractic of NY P.C.; Alpeshkumar Manughai Patel; A. M. Patel Physical Therapy P.C.; Geoffrey Allerton Cushman; PI Physical Therapy P.C.; Longyu Ma; Hidden Dragon Acupuncture P.C.; Xia Guan; Rebound Acupuncture P.C.; Vladimir Nazarov; Sherwin Catugda Paller; Floral Park Physical Therapy P.C.; Mohamed Mahmoud Elmandouh; Protection Physical Therapy P.C.; Raouf Akl; Primavera Physical Therapy P.C.; Paul Victor Scarborough; A.O.T. Chiropractic P.C.; Evolution Chiropractic P.C.; Mark Gladstein; Victoria Frenkel; and Advanced Comprehensive Laboratory LLC.

The following 14 defendants have failed to appear in this action, and certificates of default have been entered against them: Irina Kataeva; Cityworks Physical Therapy, P.C.; Hyeongsock Choi; Choice Acupuncture PLLC; Choi-Go Acupuncture PLLC; Leonard Luna; Kings Chiropractic Wellness, P.C.; SJM

As relevant background, on August 14, 2023, the Court granted Plaintiffs' motion for leave to file the Second Amended Complaint (the "SAC"), which Plaintiffs filed on August 17. Dkt. 388. The SAC added 16 new defendants, expanded the scope of the scheme based on new information learned through discovery, and increased Plaintiffs' alleged damages to more than \$22 million. On September 1, 2023, the Court entered a revised case schedule (Dkt. 405), which required the parties to complete fact discovery by August 2, 2024. The parties to this action jointly moved for a second extension of the fact discovery schedule on July 23, 2024, showing good cause based on the parties' need to complete document and written discovery and depositions. Dkt. 598. On that same date, the Court entered the operative case schedule, which extended the close of fact discovery to May 2, 2025. Dkt. 599. In the eight months since the most recent case schedule was entered, the counterclaims asserted against Plaintiffs have been dismissed, the parties are much closer to completing document discovery, additional depositions have been taken, and significant new information has been learned relating to the claims and defenses at issue.

Good cause supports the Parties' request to extend the current fact discovery deadline. Among the reasons supporting the requested extension are the following:

- Plaintiffs have been diligently pursuing discovery. Through the August 14, 2023 order, this Court granted Plaintiffs leave to take 36 depositions unless agreed to by the parties or further order of the court. To date, Plaintiffs have taken 11 of these 36 depositions. Plaintiffs have noticed a remaining 14 depositions, which include lead Defendants Dr. Shapiro, Alon, Dolsky, Dr. Moshe, and Moshe. Completion of other discovery, including most significantly production of electronically stored information ("ESI"), must be completed before Plaintiffs can conduct effective and appropriate depositions of lead defendants.
- Defendant Dolsky still must complete his ESI discovery. Despite extensive effort and expense, production and even collection of relevant ESI has not been completed and is continuing as of the date of this request. Dolsky does not presently have an estimated timeline for completing e-discovery.
- While the other Parties are nearing the completion of their production of ESI, there are outstanding deficiencies and other issues to be resolved, including responsive records and accounts that have not been produced and documents that may have been destroyed. ESI production has taken longer than anticipated due to the volume involved and collection and processing issues.

Acupuncture P.C.; Right Aid Medical Supply Corp.; Jongdug Park; J Park Chiropractic P.C.; All About Chiropractic P.C.; Ahmed Mamoud Abdelshafy Elmansy; and Sky Limit Physical Therapy, P.C.

Defendants Mohamed Sayed Ahmed Hassan and Nile Rehab Physical Therapy P.C. appeared in this action but have failed to defend the claims asserted against them. On February 5, 2025, the Court entered an order finding them in default. 2/5/2025 Text Order.

Plaintiffs have been unable to locate defendant Stacy Juyoung Moon and have not served her with the Second Amended Complaint.

- On March 11, 2025, Defendants first served notice seeking depositions of a significant number of State Farm witnesses, including a Rule 30(b)(6) designee and current and former employees. Defendants have taken no depositions.
- Important non-party discovery issues are outstanding and will likely require motion practice, including:
 - The Russell Friedman Law Group LLP served written responses and produced some documents pursuant to a subpoena, but claims to be unable to produce other documents because the firm is winding down its operations and is standing on claims of privilege in withholding documents and information from its production.
 - Brijesh Reddy, M.D. was served with a subpoena seeking his deposition on September 16, 2024, and Plaintiffs have been attempting to negotiate a mutually agreeable date and time; however, Dr. Reddy and his counsel have been uncooperative, and Plaintiffs anticipate seeking Court assistance to compel Dr. Reddy's appearance.
 - Plaintiffs are still in the process of resolving issues with Michael Torres pursuant to the Court order issued on March 28, 2025. Plaintiffs are hopeful that there will be no need for further Court involvement.
- While the Parties can, have, and expect to take depositions before all document production and written discovery is complete, it is critical for the Parties to have certain materials before taking important depositions. A significant number of important depositions still need to be taken. Delays in obtaining key documents from parties and non-parties, including ESI, have delayed these key depositions.
- New counsel appeared for defendants Peter Kopach and First Alternative PLM Acupuncture in November 2024. Their later appearance in the case has resulted in their need for additional time to propound and respond to discovery, including serve written responses and documents responsive to Plaintiffs' second set of document demands.
- Plaintiffs are actively involved in settlement discussions with Kopach, First Alternative, Barakat, and Barakat PT, and additional time to conclude these discussions will assist in narrowing the parties and claims at issue in discovery.

The relief requested herein will not unduly prejudice any Party because Plaintiffs and Defendants alike require additional time to complete discovery. Given their diligence in seeking and obtaining discovery throughout this action, the complexity of the issues, the number of parties, the discovery to be completed, and the absence of any objection from any party, the Parties respectfully request the Court enter the attached Proposed Case Schedule.

Respectfully Submitted,

By: /s/ Jonathan L. Marks

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